

REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

Claim 12 has been cancelled. Claim 5 was indicated as being allowable, subject to overcoming the rejection under 35 U.S.C. § 112, second paragraph. Claims 3 and 7 were similarly indicated as being allowable, subject to overcoming the rejection under 35 U.S.C. § 112, second paragraph, and being rewritten in independent form. Claims 3 and 7 have therefore been rewritten in independent form.

Claims 1 and 9 have been amended to recite calculating a point number related to a reduced consumption of the useful life of the construction machine by using said operating information collected by the information control means, wherein the point number is based on a comparison of an actual operating time or load ratio and a standard operating time or load ratio. This is believed to more clearly require that the point number be *based on a comparison* of an actual operating time or load ratio and a standard operating time or load ratio.

Responsive to the rejection under 35 U.S.C. § 112, second paragraph, Claims 1, 3, 5, 7 and 8 have also been amended to recite a step of renting one or more construction machines to one or more renters, and the phrase “in proportion to” in Claims 3, 5 and 7 has been changed to “based on.” As for the objection to Claim 3 as allegedly being inconsistent with Claim 1, Claim 3 was merely narrower than, but not inconsistent with, Claim 1. That is, Claim 1 recites calculating a point number related to a reduced consumption of the useful life of the construction machine by the operation of the construction machine by each renter, based on factors which can include a comparison of an actual operating time and a standard operating time, and Claim 3 is limited to the case where actual operating time of the construction machine is less than the standard operating time. The rejection under 35 U.S.C.

§ 112, second paragraph is believed to be moot and Claims 3, 5 and 7 are believed to be allowable.

As to the rejection of Claims 1, 2, 4, 6 and 8-12 under 35 U.S.C. § 112, first paragraph, the Office Action questions the enablement for these claims because they supposedly can include the case where the actual operating time or load ratio on the construction machine is more than the standard operating time or load ratio. However it is noted that the recitation of a “reduced” consumption of the useful life of the construction machine in Claims 1 and 9 excludes the case where the operating time is more than a standard time. That is, the useful life of the construction machine is consumed by each use, but the consumption of the useful life of the construction machine is “reduced” only in a case where the actual operating time or load ratio is less than the standard operating time or load ratio. Accordingly, these claims cannot include the case where the actual operating time or load ratio on the construction machine is more than the standard operating time or load ratio, and so this objection should not apply to Claims 1, 2, 4, 6, 9 and 11.

As to Claims 8 and 10, these claims do not recite that the point number is related to a consumption of a useful life of the construction machine, but instead recite that the point number is adjusted according to a stock state of available construction machines for rent. Basis for this is found at page 11, lines 13-20, which discloses that the stock state of available construction machines can be used to modify the constant “Kh” of equation 1.

Claims 1, 2, 4, 6 and 8-11 were again rejected under 35 U.S.C. § 103 as being obvious over Hideki in view of the Budget Rent A Car article.

As previously explained, Hideki discloses a system for renting construction equipment in which start and stop information may be transmitted to a base station but no “point number for service” is calculated. The Budget article describes a promotional program in which members are rewarded for every dollar they spend, but each dollar spent is not

related to a reduced consumption of the useful life of the product being rented -- automobile rental charges are normally based on days rented, not usage. The Office Action nonetheless justified this rejection by taking the position that the claim language does not sufficiently limit the point value to the reduced consumption of the construction machine. In response, it is noted that Claims 1 and 9 now recite that the point number "is based on a comparison of an actual operating time or load ratio and a standard operating time or load ratio." It is respectfully submitted that neither Hideki nor the Budget article teach calculating a point number "based on a comparison of an actual operating time or load ratio and a standard operating time or load ratio," and so the amended claims define over this prior art.

As to Claims 8 and 10, the Office Action recognizes that Hideki fails to teach calculating a point number for each renter on the basis of an evaluation standard using operating information, and that neither Hideki nor the Budget article teach adjusting a point number according to stock state of available construction machines for rent, but asserts that this would have been obvious in Hideki in view of the Budget article and the "law of supply and demand." It is respectfully submitted, however, that the claimed features go beyond how the "law of supply and demand" would reasonably have motivated one skilled in the art to have modified Hideki in view of the Budget article.

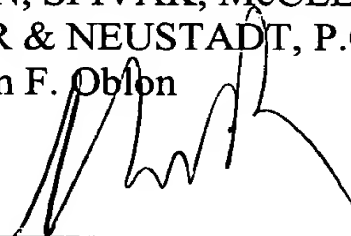
The Budget article teaches rewarding members for every dollar they spend. The "law of supply and demand," as applied to this, might suggest awarding more points per dollar spent when the supply of articles to be rented is high, but would not have suggested awarding more points on the basis of an evaluation standard using operating information of the vehicle. For example, it is normal in the automobile rental industry to charge by the day with unlimited mileage, and there is no evidence that this was not the case for Budget Rent A Car at the time that the Budget article was published. Thus the Budget article teaches rewarding renters with points based on dollars spent in view of the number of days rented. Using the

“law of supply and demand,” as applied to this, would mean more points awarded per dollar spent when the supply is high, but would not suggest awarding more points on the basis of an evaluation standard using operating information of the vehicle, rather than dollars spent in view of the number of rental days. The claims thus define over this prior art.

Applicants therefore believe that the present application is in a condition for allowance and respectfully solicit an early Notice of Allowability.

Respectfully submitted,

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